

ALVION PROPERTIES, INC., et al.

Plaintiffs,

v.

BERND H. WEBER, et al.,

Defendants.

BERND H. WEBER, et al.

Counter-Claimants,

HAROLD M. REYNOLDS, et al.,

Counter-Defendants.)

No. 3:08-0866
Judge Sharp

Magistrate Judge Bryant has issued a Report and Recommendation (“R & R”) (Docket No. 632) recommending that the “Motion For Summary Dismissal Of The Case” (Docket Entry No. 630) filed by Third-Party Defendants Robert M. West and Allain de la Motte be denied as untimely, coming as it did almost three months after the July 25, 2012 deadline for dispositive motions. After Magistrate Judge Bryant denied Third-Party Defendants’ “Motion for Reconsideration” (Docket No. 642), they filed a “Motion In Opposition to the Magistrate Judge’s Recommendation,” and a “Request for a Pretrial De Novo Determination by the District Judge” (Docket No. 650) in which they ask the Court to consider their Motion for Reconsideration as objections, and either excuse their tardiness or grant them leave to file their untimely “Motion for Summary Dismissal of the Case.”


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the same. In the Motion for Reconsideration, Third-Party Defendants concede “they understood that dispositive motions were required to be filed before the July 25, 2012 deadline,” but claim they “also were under the erroneous impression that the deadline did not apply to motions and related matters still pending before the Court on which the Court has yet to rule; to wit Docket Entry #533.” (Docket No. 642).

“Docket Entry # 533” is not a motion requiring ruling, but rather is a Notice of Voluntary Dismissal in which Counter-Plaintiffs Bernd Weber and Claude Chauveau “give notice that they now dismiss this action against Melland Group LLC, without prejudice.” (Docket No. 533 at 1). The existence of that Notice hardly excuses Third Party Defendants West and de la Motte from timely asserting the alleged lack of personal jurisdiction, particularly since they recognized in the Memorandum filed in support of their Motion for Summary Dismissal that they are being sued in their individual personal capacities. (Docket No. 630-1 at 5). This case will go to trial on December 11, 2012, and the Court will not allow the Third Party Defendants leave to file a dispositive motion at this late date.

Accordingly, the R&R (Docket No. 632) is hereby ACCEPTED and APPROVED, the Objections filed by Third-Party Defendants West and de la Motte (Docket Nos. 642 & 650) are hereby OVERRULED, and the “Motion For Summary Dismissal Of The Case” (Docket No. 630) is hereby DENIED.

It is SO ORDERED.



KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE